

State of California
Underground Storage Tank Cleanup Fund

General Reimbursement
Request Information

State Water Resources Control Board
Division of Financial Assistance

Mailing Address:

State Water Resources Control Board
UST Cleanup Fund Program
P.O. Box 944212
Sacramento, CA 94244-2120

Physical Address:

State Water Resources Control Board
UST Cleanup Fund Program
1001 I Street, 17th Floor
Sacramento, CA 95814-2828

Contact Fund: 1-800-813-FUND (3863) or USTCF_Payments@waterboards.ca.gov

Website: www.waterboards.ca.gov/water_issues/programs/ustcf

Revised 08/28/08

TABLE OF CONTENTS

GENERAL INFORMATION:	1
WHAT WILL THE FUND REIMBURSE?	1
REIMBURSEMENTS AS APPLIED TO LETTER OF COMMITMENT	1
DEDUCTIBLE	1
MAXIMUM REIMBURSEMENT FROM THE FUND.....	2
HOW OFTEN CAN I REQUEST REIMBURSEMENT?	2
WHAT ABOUT SIGNATURES?	2
PROJECT ELIGIBILITY	2
COSTS PAID BY OTHERS.....	2
THIRD PARTY CLAIMS.....	3
INELIGIBLE COSTS	4
COSTS INCURRED BUT NOT PAID.....	5
FINAL PAYMENT.....	5
REIMBURSEMENT REQUEST RECONCILIATION	5
RECORDS, RECORD RETENTION, AND AUDIT.....	5
WHERE TO SEND COMPLETED REIMBURSEMENT REQUEST PACKAGES	6

GENERAL REIMBURSEMENT REQUEST INFORMATION UNDERGROUND STORAGE TANK CLEANUP FUND

GENERAL INFORMATION:

The following information is designed to assist you in the completion of the form ***“REIMBURSEMENT REQUEST – UNDERGROUND STORAGE TANK CLEANUP FUND”***. You are encouraged to read this information before submitting a claim for reimbursement of funds. **Reimbursement requests that are not in accordance with this information or are in error will be returned for corrections.**

If you have any questions regarding this information, please contact the Underground Storage Tank Cleanup Fund of the State Water Resources Control Board at (800) 813-FUND (3863).

WHAT WILL THE FUND REIMBURSE?

Reasonable and necessary costs incurred for corrective action work performed after January 1, 1988; and

Costs of bodily injury or property damage to third parties incurred by the third party after January 1, 1988 (***Third Party Claims***, See definition on page 3).

REIMBURSEMENTS AS APPLIED TO LETTER OF COMMITMENT

We can only make payments up to the amount allocated by your Letter of Commitment (LOC). If your corrective action costs are going to exceed the LOC amount, submit your reimbursement request for the actual amount of incurred costs (even if the costs exceed your LOC amount) and the Fund will amend the LOC accordingly. **You do not have to request an amendment to the LOC to raise the amount of allocation.** However, you must request an amendment to the LOC for other changes such as name change, address change, etc.

DEDUCTIBLE

You are responsible for the deductible, which is withheld from your first reimbursement from the Fund. The costs used to satisfy the deductible must be otherwise eligible corrective action costs. Ineligible costs, such as tank removal, etc. cannot be used to satisfy the deductible. Only eligible costs in excess of the deductible amount shall be reimbursable from the Fund. The amount of the deductible is dependent upon your priority classification as follows:

Priority A \$0
Priority B \$5,000
Priority C \$5,000
Priority D \$10,000

NOTE: If the claimant was granted a waiver to the permit requirement, the deductible amount is doubled or quadrupled (depending on your UST permit compliance date).

GENERAL REIMBURSEMENT REQUEST INFORMATION UNDERGROUND STORAGE TANK CLEANUP FUND

MAXIMUM REIMBURSEMENT FROM THE FUND

Reimbursement from the Fund for corrective action, regulatory technical assistance, and third party compensation costs shall not exceed \$1,000,000 (less the deductible) per occurrence. Once a claimant has been reimbursed this amount, an additional \$500,000 per occurrence may be reimbursed for reasonable corrective action and regulatory technical assistance costs. The additional \$500,000 does **NOT** cover third party costs.

HOW OFTEN CAN I REQUEST REIMBURSEMENT?

Reimbursement requests for ongoing projects may be submitted on a monthly basis provided the request is not less than \$10,000. Please note that the costs must be incurred, but not necessarily paid at the time you submit your request. This is discussed in more detail in the section ***“Costs Incurred But Not Paid”*** (page 5).

WHAT ABOUT SIGNATURES?

The same person(s) who signs the initial claim application must sign all Fund documents. However, the claimant may designate power of attorney to someone else to sign certain Fund documents. The Fund encourages claimants to sign all Fund documents personally, but there may be circumstance where a claimant may wish to designate a representative to sign on their behalf. In this situation, the claimant must submit a notarized Power of Attorney form. The Fund recommends not designating a consultant or contractor who is performing work on the project site because it could create a conflict of interest. Claimants should be aware that they are personally responsible and bound by any assertions made to the Fund pursuant to a Power of Attorney. All signatures on Fund documents must be original and in ink.

PROJECT ELIGIBILITY

The Reimbursement Request form should only reflect eligible costs. If a portion of the project is ineligible, then any costs associated with the ineligible portion are also ineligible. For example, assume you are replacing your existing tank along with cleaning up the contaminated soil. The cost of cleanup is eligible under the program, but the removal and replacement of the tank is not eligible. Therefore, any costs associated with the removal and/or replacement of the tank (such as inspection of the tank removal/replacement) are not eligible.

COSTS PAID BY OTHERS

All corrective action costs incurred must be paid by or on behalf of the claimant.

No claimant shall be entitled to double payment for the same corrective action costs. There are cases where funds for corrective action costs are advanced to the claimant, or the costs are paid on behalf of the claimant. If the claimant is obligated to repay such advances with any reimbursement received from the Fund, the claimant shall not be considered to have received double payment. Please note that the reimbursements must be paid over to the person making such an advance and the claimant shall not benefit, directly or indirectly, from such payover.

GENERAL REIMBURSEMENT REQUEST INFORMATION

UNDERGROUND STORAGE TANK CLEANUP FUND

Corrective action costs which were paid by another party cannot be claimed against the Fund as eligible costs by the claimant unless there was an agreement stipulating that the other party is paying the costs on behalf of the claimant and will be repaid for the money expended. **This agreement must have been executed by the parties involved prior to the costs being incurred.** Therefore, before any reimbursement can be made, you must submit documentation stating why another party is advancing funds for the cleanup, and submit a copy of the agreement stating: (1) what costs the other party is advancing the funds for; and (2) that the claimant is obligated to repay such advances from any reimbursement received from the Fund.

THIRD PARTY CLAIMS

All third party claims are a result of a final judgment (no default judgment), court-approved settlement, or arbitration award by a court appointed arbitrator imposing liability upon an owner or operator for bodily injury or property damage to a third party as a result of an unauthorized release of petroleum from an underground storage tank. **A third party is someone other than the owner or operator of the tanks or owner or tenant of the site.** You must submit a verified copy of the judgment, settlement, etc.

Third-Party compensation claims cannot exceed \$1,000,000 per occurrence. Once a claimant has been reimbursed this amount, an additional \$500,000 per occurrence is available and may be reimbursed for reasonable corrective action and regulatory technical assistance costs. The additional \$500,000 does NOT cover third-party costs.

Only the following types of third party compensation claim costs are eligible for reimbursement from the Fund:

- Medical expenses occasioned by an unauthorized release;
- Actual lost wages or business income caused by an unauthorized release;
- Actual expenses for remedial action necessary to remedy the effects of property damage caused by an unauthorized release; and
- Damages equal to the fair market value of any property rendered permanently unsuitable for beneficial use by an unauthorized release.

Bodily injury or property damage claims are not allowable.

GENERAL REIMBURSEMENT REQUEST INFORMATION

UNDERGROUND STORAGE TANK CLEANUP FUND

INELIGIBLE COSTS

In addition to any unreasonable and unnecessary costs, the following types of costs are not eligible for reimbursement from the Fund:

- Attorney fees or other legal costs;
- Interest or any finance charge;
- Any cost associated with removal, repair, retrofit, or installation of an underground storage tank or its associated equipment;
- Any costs associated with supervision of corrective action by a claimant, unless licensed to perform corrective action work;
- The cost of soil density tests that are not directly related to the corrective action which is the subject of the claim;
- The cost of environmental audits or pre-purchase agreements, unless performed as part of corrective action;
- The cost of testing for non-hydrocarbon contamination that is not associated with corrective action for the specific claim involved;
- The cost of abandonment of wells not directly impacted by the unauthorized release and not installed or used for corrective action purposes;
- The cost of blacktop or concrete replacement or repair not directly associated with corrective action;
- The cost of demolition or repair of buildings;
- The cost of monitoring devices to detect hydrocarbon contamination in soil, the vadose zone, or water to the extent that they are not used for corrective action;
- The cost of small tools, except as required for corrective action;
- The cost of purchase of equipment, unless the claimant can demonstrate that the purchase of equipment is more cost effective than leasing or renting;
- Any other cost not directly related to corrective action, including, but not limited to, costs associated with completing and filing of claims and appeals; and
- Corrective action costs and third party compensation claim costs which are occasioned by or result from the gross negligence or the intentional or reckless acts of the claimant or the agents, servants, employees or representatives of the claimant.

GENERAL REIMBURSEMENT REQUEST INFORMATION UNDERGROUND STORAGE TANK CLEANUP FUND

COSTS INCURRED BUT NOT PAID

As previously stated, we will pay for eligible corrective action costs incurred within one year of your Reimbursement Request, even though those costs have not yet been paid to your consultant. However, once you are paid by the Fund for any corrective action cost requested, you must pay the consultant within thirty days. **By signing the Reimbursement Request form, you are certifying that you have paid all incurred costs or will pay the incurred costs within 30 days of the receipt of the State funds. If the costs are not paid within 30 days of receipt of the monies received from the Fund, you must return the monies to the State Water Resources Control Board.** In addition, you must demonstrate that all corrective action costs have been paid.

FINAL PAYMENT

The final reimbursement request is to be made only when all portions of the project are 100 percent complete and the work has been accepted by the Oversight Agency. Your final reimbursement request should be identified as such by entering the word “*FINAL*” after the number of the reimbursement (e.g. “Reimbursement No. 5-Final”).

REIMBURSEMENT REQUEST RECONCILIATION

Following our review of your reimbursement request, you will be provided with a copy of our calculations explaining any costs that were “Pending” or determined “Ineligible”. The amount of the State check will also be indicated. It is important that you review any differences between what was claimed for reimbursement and what was allowed. If costs were listed as “Pending”, you may re-submit those costs, with the additional documents, on a future reimbursement request. If you disagree with the costs determined “Ineligible”, you will be given instructions with our payment calculations regarding appeals.

RECORDS, RECORD RETENTION, AND AUDIT

Your project is subject to audit at any time. Therefore, it is very important that you keep an accurate record keeping and financial management system, which provides efficient accountability of all funds.

You must retain such records continually for at least three (3) years after final payment from the Fund. The retention period shall be extended until completion of any audit in progress at the time of normal expiration of the retention period.

GENERAL REIMBURSEMENT REQUEST INFORMATION UNDERGROUND STORAGE TANK CLEANUP FUND

WHERE TO SEND COMPLETED REIMBURSEMENT REQUEST PACKAGES

For ease in reviewing your reimbursement request package, please **DO NOT** bind (spirals, binders, staples, etc) your package. For your convenience, rubber bands and binder clips are acceptable. Send you complete reimbursement request package (Reimbursement Request form, Spreadsheet, and supporting documentation) to:

Mailing Address:

State Water Resources Control Board
UST Cleanup Fund Program
P.O. Box 944212
Sacramento, CA 94244-2120

Physical Address:

State Water Resources Control Board
UST Cleanup Fund Program
1001 I Street, 17th Floor
Sacramento, CA 95814-2828

Contact Fund: 1-800-813-FUND (3863) or

http://www.waterboards.ca.gov/water_issues/programs/ustcf